

Senate Judiciary Committee Amendment No. 1 (by Kurita)

Amendment No. 1 to SB2234

**Person
Signature of Sponsor**

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 2234

House Bill No. 2160*

by deleting subsection () (3) of the amendatory language of SECTION 1 and substituting instead the following:

(3) At the same time the victim or victim's beneficiary files a certified copy of the restitution order with the civil court, such victim or victim's beneficiary shall have the defendant personally served in accordance with the Tennessee rules of civil procedure. Such service shall give notice to the defendant of the victim's or victim's beneficiary's intent to convert the restitution order to a civil judgment, include a copy of the restitution order and a statement as to the amount of unpaid restitution the victim or victim's beneficiary alleges the defendant still owes.

(4) Upon being served, the defendant shall be permitted to file an answer in accordance with the rules of civil procedure.

(5) Upon service of the defendant and receipt of the defendant's answer, if any, the civil court shall conduct a hearing in order to take proof as to the amount of ordered restitution actually paid. Both the victim or victim's beneficiary and the defendant shall be permitted to offer proof at this hearing. If the court finds by a preponderance of the evidence presented that the amount of restitution actually paid is less than the total amount of restitution ordered pursuant to subsections (c) or (g), then the court shall enter a judgment in favor of the victim or the victim's beneficiary and against the defendant for the amount of the unpaid balance of such restitution.

(6) At the hearing conducted in accordance with subpart (5) of this subsection, the only issues over which the court shall have jurisdiction is whether the defendant was properly served in accordance with the rules of civil procedure, whether the restitution

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order entered against the defendant pursuant to this section has been satisfied by the defendant and, if not, the amount of restitution still owed by the defendant.

FURTHER by renumbering present subsection ()(4) of the amendatory language of SECTION 1 to be subsection ()(7).

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SENATE JUDICIARY COMMITTEE AMENDMENT NO. 1: adds new language specifically requiring the victim or the victim's beneficiary to have the defendant personally served in accordance with the rules of civil procedure. Such service shall notify the defendant of the intention to convert the restitution order into a civil judgment. New language is also added to specifically state that the defendant shall be permitted to offer proof at the civil proceeding.